



2008 Legislative Session Criminal Penalties Changes

Bill No.	Title	Statute	Description	Penalty	Prison Admits	Fiscal Impact
HB 0010	Disclosure of Identity to Police Officer	Obstructing Govt Operations Enacts 76-8-301.5 Amends 77-7-2	Class B misd. for a person to fail to disclose the person's name when disclosure is demanded by a peace officer based on a reasonable suspicion that the person has committed, is in the act of committing, or is attempting to commit, a criminal offense.	New Class B		None
HB 0014	Discharge of Firearm Amendments	Weapons Amends 53-3-220 76-5-203 76-10-508	Provides that having the permission of the person in charge of the property when discharging a firearm is only a defense to a misdemeanor offense of discharging a firearm, not a felony offense. Modifies provisions relating to felony discharge of a firearm by describing conduct that constitutes a first, second, or third degree felony and describing enhanced penalties for these offenses.	Enhanced 2nd from a 3rd if BI 1st from a 2nd if SBI		None
HB 0019	Assault on a Police Officer	Assault and Related Offenses Amends 76-5-102.4	Increases the penalty for committing a second or subsequent assault against a peace officer from a class A to a third degree felony.	Enhanced 3rd on second offense	1 per year	\$25,700/year

HB 0023	Child and Family Protection	Child Abuse Amends 62a-4a-1002 76-5-109	Includes child abandonment as a type of child abuse. Provides that a person who commits child abandonment, or encourages or causes another to commit child abandonment, or an enterprise that encourages, commands, or causes another to commit child abandonment is a third degree felony; or if the child abandonment results in serious physical injury, it is a second degree felony	New 2 nd Degree and 3 rd Degree	
HB 0030	Vehicle Concealing Illegal Items	Vehicle Compartment for Contraband Enacts 76-10-2701 Amends 76-10-1602	Provides that modifying any motor vehicle to facilitate the illegal transportation, concealment, or storage of contraband is a third degree felony. Provides that possession of a motor vehicle modified to facilitate concealing contraband, with the intent to conceal or transport contraband, is a class A misdemeanor.	New 3 rd Degree and Class A	None
HB 0034	Email Information Required of Sex Offenders	Sex Offender Registration Amends 77-27-21.5	Requires sex offenders who are required to register to also provide internet identifiers.	New 3 rd Degree and Class A	None
HB 0102	Child Abuse Homicide Amendments	Criminal Homicide Amends 76-5-208	Clarifies that the offense of child abuse homicide does not apply under circumstances that constitute aggravated murder. Clarifies that the mental states referred to in the offense of child abuse homicide are only applicable to the element of the commission of child abuse, not to the element of causing the death of a child. Increases the penalties for child abuse homicide from a second to a first degree felony if the child abuse is done recklessly; increases	Increased 2 nd Degree to a 1 st Degree and 3 rd Degree to a 2 nd Degree	1 per year for 6 years to DOC of \$25,700 and \$500 to the Board of Pardons. In FY2010 the bill will require appropriations from the Gen. Fund of \$51,400 to DOC and \$1,000 to the Board of Pardons. It is estimated that costs

child abuse homicide from a third to a second degree felony if the child abuse is done with criminal negligence and under circumstances not amounting to the type of child abuse homicide that is done recklessly.

will continue to increase at between \$25,000 and \$50,000 per year between FY2011 and FY2015.

Makes it a third degree felony to obtain or attempt to obtain information from the controlled substances database for a purpose other than a purpose authorized by statute or rule. Prohibits access to, and use of, identifying information in the controlled substance database, by discovery, subpoena, or similar process, in certain civil, judicial, administrative or legislative proceedings. Establishes a pilot program, beginning July 1, 2008 and ending on December 1, 2010.

Enactment of this bill appropriates \$650,000 one-time and \$175,000 ongoing from the Gen. Fund to develop a real time controlled substance database on a statewide basis. Some businesses may be affected due to increased requirements for software and computer hardware.

Amends provisions in the GRAMA to provide protected status to all information collected in relation to the Identity Theft Reporting Information System established in the Office of the Attorney General. Establishes the Identity Theft Reporting Information System (IRIS) program.

Makes it a 1st degree to engage in criminal solicitation to commit, or attempt to commit, a felony punishable by LWOP .
Makes it a 1st degree punishable by imprisonment for 3 to life, to engage in criminal solicitation to commit, or attempt to commit, murder, child kidnapping, and certain sexual

Enactment of this bill will not require additional appropriations in the first two years of implementation. However, each year

1sHB 0119 **Controlled Substance Database Amendments**

Controlled Substances

Enacts
58-37-7.8

Amends
58-37-7.5

New
3rd Degree

1sHB 0141 **Identity Theft Reporting Information System Amendments**

ID Theft Reporting Information System

Amends
63-2-304
67-5-22

New
3rd Degree

None

HB 0256 **Jessica's Law**

Sexual Offenses

Amends
76-4-102
76-4-204
76-5-402.1
76-5-402.3

offenses.
 Makes it a 1st degree felony, punishable by 15 years to life, to engage in criminal solicitation to commit, or attempt to commit, rape of a child, object rape of a child, or sodomy on a child. Provides that a court may impose a lesser term if the court finds it is in the interests of justice. Increases the minimum term of imprisonment for rape of a child, object rape of a child, or sodomy on a child, to 25 years to life. And removes the authority of a court to impose a lesser sentence.

between 2018 and 2034, the DOC will require an increase of \$50,000 per year ongoing from the Gen. Fund to pay for incarceration costs, with an annual cost in 2034 **and each fiscal year thereafter of \$850,000.**

76-5-403.1

Sexual Offenses

HB 0314

**Sexual Offenses-
Definitions**

**Amends
76-5-402.2**

Amends 76-5-402.2 Object Rape to include penetration by a human body part other than the mouth or genitals.

**Increased
2nd Degree to
1st Degree**

None

HB 0327

**Enticing a Minor by
Electronic Means**

**Enticement of a
Minor**

**Amends
76-4-401**

Modifies 76-4-401 Enticing a Minor over the Internet, to include text messaging.

**New
One Degree
Lower than
Offense**

None

HB 0339

**Human Trafficking
Amendments**

Kidnapping

**Enacts
76-5-307
76-5-308
76-5-309
76-5-310**

Criminalizes human smuggling for profit or commercial purposes. Criminalizes human trafficking for forced labor and for sexual exploitation. Distinguishes between human trafficking and aggravated human trafficking. Distinguishes between human smuggling and aggravated human smuggling.

**New
1st Degree
2nd Degree
3rd Degree**

None

HB 0346

**Division of Real Estate
Related Amendments**

**Real Estate
Commission**

Amends

Addresses rulemaking by the Real Estate Commission. Addresses fines that may be imposed. Addresses disciplinary actions that may be imposed under provisions related to

**New
3rd Degree**

Increases

		61-2-5.5 et al	<p>real estate brokers and agents, the Real Estate Appraiser Licensing and Certification Act, and the Utah Residential Mortgage Practices Act. Modifies criminal penalties.</p> <p>Modifies 76-5-106.5 to define “course of conduct” to mean: two or more acts directed at or towards a specific person, including:</p> <p>(i) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about a person, or interferes with a person's property: (A) directly, indirectly, or through any third party; and (B) by any action, method, device, or means; or</p> <p>(ii) when the actor engages in any of the following acts or causes someone else to engage in any of these acts: (A) approaches or confronts a person; (B) appears at the person's workplace or contacts the person's employer or coworkers; (C) appears at a person's residence or contacts a person's neighbors, or enters property owned, leased, or occupied by a person; (D) sends material by any means to the person or for the purpose of obtaining or disseminating information about or communicating with the person to a member of the person's family or household, employer, coworker, friend, or associate of the person; (E) places an object on or delivers an object to</p>	Class B to Class A	None
HB 0493	Stalking Amendments	<p>Assault and Related Offenses</p> <p>Amends 76-5-106.5</p>		New 3 rd Degree	None

property owned, leased, or occupied by a person, or to the person's place of employment with the intent that the object be delivered to the person; or (F) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.

Makes the penalty for violating a stalking injunction a 3rd Degree.

Enacts an impaired driving plea; provides that a plea to a driving under the influence violation for an offense committed on or after July 1, 2008 may be entered as an impaired driving conviction in certain circumstances; provides that an impaired driving violation is a class B misdemeanor; provides requirements for a court entering a conviction of impaired driving in certain circumstances; requires the court to notify the Driver License Division of an impaired driving conviction; provides sentencing requirements for impaired driving convictions; provides that certain plea requirements when the prosecution agrees to a plea of guilty or no contest to an alcohol or drug-related reckless charge in satisfaction or substitute of an original charge of driving under the influence only apply to an offense committed before July 1, 2008; clarifies

**Driving Under
the Influence**

**Enacts
41-6a-502.5**

**Amends
41-6a et al
53-3-220
53-3-223
76-5-207
76-10-528**

SB 0015s4

**Driving Under the
Influence Amendments**

**8
inm
25
prb**

**\$660,000 UHP
\$660,000 LLE
\$264,000 UDC**

that certain license reinstatement provisions only apply to a certain 90 day suspension period imposed by the Driver License Division; increases the administrative impound fee for a driving under the influence violation impound; and makes technical changes.

SB 0065	Soliciting Gang Members Prohibited	Offenses Against Public Order and Decency	Creates the criminal offenses of intimidating a minor to join a criminal street gang, or leave a criminal street gang. It is a Class B for a person affiliated with a criminal street gang to intimidate a minor to commit any misdemeanor offense. It's a Class A misdemeanor for repeatedly recruiting a minor into a gang.	New Class A and Class B	2 to probation Per year	\$5,336 \$10,700
		Enacts 76-9-801 76-9-802 76-9-803				
SB 0081	Illegal Immigration (Effective July 1, 2009)	Illegal Immigration	Requires a county sheriff to make a reasonable effort to determine the citizenship status of a person confined to a county jail for Bond.	New Class A (7-1-09)		None
		Enacts 17-22-9.5 63-99a-101 63-99a-104 67-5-22.5 67-5-26 76-10-2701	The ABC Commission may not grant a restaurant liquor license or private club license to a person who is not lawfully in the US.			
			Provides for the creation and issuance of identification documents and requires that those identification documents issued by public entities go only to US citizens, nationals, or legal permanent resident aliens with certain exceptions.			
		Amends 32A-4-103 32A-5-103	Requires public employers to register with and use a Status Verification System to verify the federal authorization status of a new employee.			
			Beginning July 1, 2009, provides that a public employer may not enter into a contract for the physical performance of services within			

the state with a contractor unless the contractor registers and participates in the Status Verification System to verify the work eligibility status of the contractor's new employees. Provides that it is unlawful to discharge a lawful employee while retaining an unauthorized alien in the same job category. Requires an agency or political subdivision of the state to verify the lawful presence in the US of an individual who has applied for a state or local public benefit, as defined by federal law, or a federal public benefit that is administered by the agency . Requires an applicant for a state or local public benefit to certify the applicant's lawful presence in the United States, and provides penalties for making a false, fictitious, or fraudulent statement or representation in the application. Provides, subject to the availability of funding, for the establishment of a Fraudulent Documents Identification Unit by the attorney general for the primary purpose of investigating, apprehending, and prosecuting individuals who participate in the sale or distribution of fraudulent identification documents created and prepared for individuals who are unlawfully residing within the state. Requires the attorney general to negotiate a MOU with the US Depart. of Justice or the US Depart. of Homeland Security for the enforcement of federal immigration and customs laws within the state by state and local law enforcement personnel. Prohibits a unit of local government from enacting an ordinance or policy that limits or prohibits a law enforcement officer or government employee from communicating or

cooperating with federal officials regarding the immigration status of a person within the state. Makes it a **class A misdemeanor** for a person to: transport in this state an alien for commercial advantage or private financial gain, knowing that the alien is in the US in violation of federal law, in furtherance of the illegal presence in the United States; or conceal, harbor, or shelter from detection an alien, in a place within this state for commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien is in the US in violation of federal law

SB 0094

Burglary of a Railroad Car

Burglary and Criminal Trespass

**Enacts
76-6-204.5**

**Amends
76-6-201**

Amends the definitions to include Railroad car (in addition to its ordinary meaning, includes a sleeping car or any container or trailer that is on the railroad car). It's a third degree felony to unlawfully enter a railroad car, or break the lock or seal on any railroad car, with the intent to coimmit a felony or theft. Provides that a charge against any person for burglary of a railroad car does not preclude a charge for a commission of any other offense.

Provides that attempt to commit a felony punishable by LWOP is a 1st degree.

Provides that a person who is convicted of aggravated murder, based on an aggravating circumstance that also constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Provides that a person who is convicted of murder, based on a predicate offense that also constitutes a separate offense, may also be convicted of, and punished for, the separate

**New
3rd Degree**

It is estimated that enactment of this bill will increase state revenues by \$15,000 annually beginning FY09. The Courts will require an ongoing Gen. Fund ppropriation of \$22,400 beginning FY09.

SB 0150

Criminal Penalty Revisions

Criminal Homicide

**Amends
76-4-102
76-5-202
76-5-203**

**Increased

2nd Degree
to
1st Degree**

None

offense.

SB 0159	Workers Compensation Fraud	Workers Copm Coverage Waivers	Modifies provisions related to workers' compensation coverage waiver and to workers' compensation insurance fraud. Class A misdemeanor if value is less than \$1,000 or number of individuals involved is less than five.	New Class A 3rd Degree 2nd Degree	None
		Enacts 31A-22-1011	A 3 rd degree felony if value is greater than \$1,000, less than \$5,000, or number of individuals is greater than five and less than 50.		
		Amends 31A-21-104 31A-22-501.1 34A-1-103 34A-2-110 Wildlife Res. Code	A 2 nd degree felony if the value is equal to or greater than \$5,000 or the number of individuals is equal to or greater than 50.		
SB 0164	Computer Assisted Hunting	Enacts 23-13-18	Prohibits the use of a computer or other device to remotely hunt an animal.	New Class A	None
SB 0192	Sex Offense Amendments	Sexual Offenses Amends 76-5-401.2	Modifies the Criminal Code regarding sexual activity and unlawful sexual conduct between 16 and 17 year olds to include the taking of indecent liberties.	New Class A	None
SB 0297	Animal Torture	Offenses Against Public Order and Decency			
		Amends 76-5-107.5 76-9-301 76-9-301.5 76-9-301.6 76-9-301.7 76-10-1602	Makes torture of a domestic animal (dog or cat) a felony on the first offense.	New 3rd Degree	None

**TOTALS
2008**

**TOTAL
2007**

New

Class B=2

Class A=6

3rd =11

2nd=3

1st =1

Prison

Admits=15/Year

X \$25,700 = \$385,500

**Enhanced or
Increased**

Probation = 26/Year

X \$2000 = \$52,000

Class B= 0

Class A=1

3rd = 1

2nd = 2

1st = 4

New

Class C=1

Class B=4

Class A=3

3rd = 2

2nd = 1

1st = 0

Capital = 1

**Enhanced or
Increased**

Prison Admits=9/Year

X \$25,700 = \$231,300

Probation = 2/Year

X\$2,000 = \$4,000

Combined
Total
2007 and
2008

Class B=0
Class A=1
3rd = 1
2nd = 1
1st = 2
Capital=1
Decreased
2nd to 3rd =1

New

Class C=1
Class B=6
Class A=9
3rd = 13
2nd = 4
1st = 1
Capital =1

Enhanced or
Increased

Class B=0
Class A=2
3rd = 2
2nd = 3
1st = 6
Capital=1

Decreased

2nd to 3rd =1

Prison
Admits=24/Year
X \$25,700 = \$616,800

Probation = 28/Year
X \$2,000 = \$56,000